

RECEIVED
TEXAS REAL ESTATE COMMISSION

AUG 06 2009

CASHIER'S SECTION
OPERATOR 13

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOHN BERNARD AUSTIN
TX-1327166-R

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DOCKETED COMPLAINT NO. 09-139

AGREED FINAL ORDER

On this the 21st day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of John Bernard Austin, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter John Bernard Austin neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent John Bernard Austin is a state certified residential real estate appraiser, holds certification number TX-1327166-R, and has been certified by the Board during all times material to this complaint.

2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.

3. On or about March 19th, 2009, the Complainant, Deloris Kraft-Longoria, filed a staff-initiated complaint with the Board based on allegations that the Respondent had failed to comply with the a previous agreed final order.

4. On or about March 19th, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

5. Respondent entered into an Agreed Final Order on or about February 11, 2008 in complaint case #06-119. Respondent failed to comply with the terms of the agreed

final order, which required Respondent to complete certain remedial education, and pay an administrative penalty in installment payments. While Respondent ultimately, belatedly paid the administrative penalty, he has not completed the remedial education required by the order.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2007).

2. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(21).

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Comply with the terms of the Agreed Final Order in complaint #06-119 by completing all of the required remedial education within 12 months of the effective date of this order;
- b. Pay a \$1,000.00 administrative penalty which shall be payable in four, equal, \$250.00 installments with the first payment being due on or before September 1st, 2009 and the remaining payments due by the first of each month thereafter;
- c. Have his certification revoked with that revocation fully probated under the condition that Respondent timely comply with all of the terms of this Agreed Final Order;
 - i. Respondent agrees that if he fails to timely comply with the terms of this Agreed Final Order, his probation shall be revoked and his certification shall be revoked; and,
- d. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518 and as agreed upon in this Agreed Final Order.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 5th day of August, 2009.


JOHN BERNARD AUSTIN


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 5th day of August, 2009, by JOHN BERNARD AUSTIN, to certify which, witness my hand and official seal.


Notary Public Signature

Anna Maria Martinez
Notary Public's Printed Name



Signed by the Commissioner this 21st day of August, 2009.


Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of August, 2009.


Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board